

**STATE OF ILLINOIS
COMMERCE COMMISSION
PUBLIC UTILITIES
MINUTES OF JULY 25, 2006
PRE-BENCH MEETING**

Pursuant to Section 2.02 of the Open Meetings Act, a Pre-Bench Meeting of the Commerce Commission was convened by Chairman Box at 1:30 p.m. on July 25, 2006 in the Chicago Office of the Commission. Present were: Commissioners Ford, Lieberman, O'Connell-Diaz, Wright and Chairman Box.

- (1) 05-0597 Commonwealth Edison Company
Proposed general increase in rates for delivery service.
(Tariffs filed on August 31, 2005)

Topics of discussion included: Commissioner Lieberman asked the ALJs to explain the conclusions in megawatt ("MW") changes; ALJ Dolan stated that in the HEPO, the subsidy being provided went across customer classes including the residential side; in the PEPO, the ALJs were trying to get closer to rate base and cost-based rates; so as not to burden residential customers any further, they took out the residential portion; the ALJs are also proposing that high voltage customers be broken into 2 sections, one for above 10 MWs and one for below 10 MWs.

Chairman Box noted that Staff had indicated pension assets had never been used before, and requested clarification; Chief ALJ Aridas explained that the accounting used by ComEd in treatment of pension assets had not been used in previous rate cases; therefore, Staff's position was that it should not be included here because there is no net asset; Chairman Box also asked about capital structure and the treatment of goodwill; the PEPO rejected the inclusion of the goodwill; the ALJs looked at the data in this case and did not use the prior cases as a reference point; the ALJs felt 46% was in the best interest of the company and ratepayers; it was a mid-point range, and their decision is supported by expert testimony in the record; they also noted that the 46% does not contain any amount of goodwill; Chairman Box asked how language regarding the general plant was interpreted and whether it compared to the 01-0423 docket; ALJ Haloulos said the language was judged on its own merit; in the 01-0423 case, ComEd was going through a transition and there are costs that cannot be separated out; expenses associated with powers plant had no merit because ComEd divested itself from its power plants in 01-0423; the substance of ComEd's argument is they were trying to recover money they were previously disallowed;

Commissioner O'Connell-Diaz asked the ALJs to explain how they arrived at a 10.19% return on equity; the ALJs reported the Order adopts Staff's return on equity of 10.19%, which excludes the goodwill calculation; ComEd's numbers were based on actual expenses in 2004; ComEd claims 2004 expenses are 26% lower than 2000 actual expenses, so their starting point was higher; the Company also states Staff's numbers

were an estimate and failed to take inflation into account; Staff says ComEd is still getting a 55% increase for distribution over what was approved in 01-0423.

Commissioner O'Connell-Diaz stated that there was a level of confusion about actual increases that are being requested in this case; the ALJs looked at the actual numbers and facts of this case and did not refer to information from previous cases; Docket 01-0423 was an unusual case, and ComEd is now a totally different company; it would be inappropriate to compare the two cases because there are two different test years; Commissioner Wright felt it was good to compare the methodology in 01-0423 to what ComEd is now requesting; Commissioner Ford agrees the Commission should look at previous records but the numbers from previous years should not dictate decisions in this case.

Chief ALJ Aridas noted that ComEd had the burden of proof and a great deal of information was presented to the parties; it is very difficult for Staff and the Commission to decide when the burden of proof has been met in such intensive cases.

Chief ALJ Aridas also informed the Commission that ComEd proposed to develop real time pricing tariffs ("RTP"); there is legislation recently enacted which necessitates a ruling in this Order on RTP because the law now requires it; there is not enough evidence developed in the record for this issue; the law requires ComEd to file a compliance tariff; Chief ALJ Aridas presented three options for the commission to move forward on this issue.

This item will be further considered at the July 26th Bench meeting.

(2) Administrative Matters

The meeting was recessed for an administrative meeting.

The Administrative Meeting was convened. Attending: Chairman Box, Commissioners Lieberman, Ford, O'Connell-Diaz and Wright, Interim Executive Director Gene Beyer, Chief ALJ Tom Aridas, Bureau Chief Beth Bosch, Matt Harvey, Marci Schroll, Eric Schlaf and Joy Nicdao-Cuyugan.

1. **Update on Vonage and E911** – Marci Schroll and Matt Harvey provided a status report.

2. **Retail Competitive Update** – Eric Schlaf reviewed his memo on this subject and asked for Commissioners' feedback on the definition of retail competition.